

1 IN THE UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF OHIO

3 CIVIL DIVISION

4 \* \* \*

5 CLIFFORD OWENSBY,

6 Plaintiff,

7 vs. CASE NO. 3:21-cv-00343-MJN-CHG

8 CITY OF DAYTON, et al.,

9 Defendants.

10 \* \* \*

11 Deposition of WAYNE HAMMOCK, Defendant

12 herein, called by the Plaintiff for

13 cross-examination pursuant to the Rules of Civil

14 Procedure, taken before me, Kathy S. Wysong, a

15 Notary Public in and for the State of Ohio, at the

16 City Law Department, 101 West Third Street,

17 Dayton, Ohio, on Thursday, November 10, 2022, at

18 2:13 p.m.

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1 APPEARANCES:

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19 \* \* \*

1 WAYNE HAMMOCK  
2 of lawful age, Defendant herein, having been first  
3 duly cautioned and sworn, as hereinafter  
4 certified, was examined and said as follows:

5 CROSS-EXAMINATION

6 BY MS. SMITH:

7 Q. Good afternoon. How are you?

8 A. I'm good. How are you?

9 Q. I'm doing okay. Could you state your  
10 name for the record?

11 A. My name is Wayne Hammock.

12 Q. Wayne Hammock, it's nice to meet you  
13 officially. My name is Clarissa Smith. I  
14 represent the plaintiff in this case, Clifford  
15 Owensby, along with Attorney James Willis and Ryan  
16 Christian.

17 So I'm going to start off by saying  
18 usually I say I won't ask too many questions.  
19 That's not the case here. So if at any point  
20 during the deposition you feel like you need a  
21 break, you need to get some air, stand up, stretch  
22 your legs, go to the restroom, let me know, we'll  
23 pause the deposition. I just ask that if there's  
24 a question posed on the table, that you answer it.  
25 But I guess before that I should have asked you,

1 have you ever been deposed before?

2 A. I believe so, right? Yes.

3 Q. Okay. So you kind of know how it  
4 goes. Has it been a while though?

5 A. Yes, it's been a couple years.

6 Q. Okay. Well, I'll go over the rules,  
7 like the one rule we just mentioned, just so we  
8 have a clear understanding.

9 First and foremost, the court  
10 reporter is taking down everything that we're  
11 saying so if you could give verbal answers. In  
12 common conversation we like to use body gestures,  
13 uh-uh, huh-uhs instead of actual words. It's  
14 easier for the court reporter to take down if you  
15 actually speak.

16 With that being said as well, she can  
17 only take down one person speaking at a time so as  
18 you're answering, I will do my very best not to  
19 interrupt you as you're giving me an answer. I'll  
20 ask you to extend me the same courtesy, if I'm  
21 asking a question, wait until I'm done and then  
22 answer the question.

23 A. All right.

24 Q. If I ask you a question and it's  
25 unclear, you don't understand, you don't hear it,

1 please ask me to repeat it or clarify. If you  
2 answer the question that I've posed, I'm going to  
3 assume that you understood it. Okay?

4 A. All right.

5 Q. You understand that today you are  
6 under oath and that your testimony will carry the  
7 same weight as if you were testifying in court at  
8 a trial?

9 A. Yes.

10 Q. And you're sworn to tell the truth?

11 A. Yes.

12 Q. Do you feel as if you are prepared to  
13 answer my questions today?

14 A. Yes.

15 Q. Do you feel that your judgment is  
16 clear, your mind is clear, you're not under any  
17 influence of any drugs, alcohol, or medication?

18 A. Yes, I'm ready.

19 Q. First and foremost, can you state  
20 your first and last name and spell your last name  
21 for the record?

22 A. Yeah. It's Wayne Hammock,  
23 H-A-M-M-O-C-K.

24 Q. What's your birth date, Mr. Hammock?

25 MR. BAZELAK: Just give her your age.

1 Date of birth is really not discoverable. You can  
2 give her your age.

3 BY MS. SMITH:

4 Q. Age is fine.

5 A. All right. I'm thirty-two.

6 Q. And where do you live?

7 A. I live here in Dayton. Dayton area.

8 Q. Okay. How long have you lived in the  
9 Dayton area?

10 A. Since 2009, so thirteen years.

11 Q. Where did you grow up? And first and  
12 foremost, should I call you Officer Hammock,  
13 Mr. Hammock? I want to be respectful.

14 A. Either is fine.

15 Q. Either is fine. Where did you grow  
16 up?

17 A. I'm from Louisville, Kentucky.

18 Q. Louisville, Kentucky. Cassius Clay  
19 is from there, isn't he?

20 A. Yes.

21 Q. So is Mr. Willis, my co-counsel.

22 A. Nice.

23 Q. Wonderful. When did you move to  
24 Ohio?

25 A. 2009.

1           Q.     2009.   Okay.   Why did you move to  
2   Ohio from the great state of Kentucky?

3           A.     I came here for college.

4           Q.     Yeah?

5           A.     Yeah.

6           Q.     Where were you going?

7           A.     I was in med school.

8           Q.     Really?

9           A.     Yes.

10          Q.     How was med school?   Did you enjoy  
11   it?

12          A.     It was all right.

13          Q.     Yeah?   Where were you going, to  
14   Wright?

15          A.     No, Kettering.

16          Q.     Kettering, okay.   I don't want to  
17   assume, but did you finish that program?

18          A.     No.

19          Q.     Why not?   Too much blood?

20          A.     No.   Personal reasons.

21          Q.     Okay.   So that kind of segues into my  
22   next question about your educational history.  
23   Where did you go to high school?

24          A.     I went to Indiana Academy High  
25   School.   That's where I graduated from.   I

1 actually went to two different high schools, but I  
2 graduated from Indiana Academy High School.

3 Q. Okay. And after high school where  
4 did you go?

5 A. I came here --

6 Q. Okay.

7 A. -- for college.

8 Q. Okay. And you were at Kettering?

9 A. Yes.

10 Q. Okay. How long were you at  
11 Kettering?

12 A. Three years.

13 Q. During your time at Kettering did you  
14 have any academic issues?

15 A. As in?

16 Q. Any grade issues, any --

17 A. No.

18 Q. -- misconduct issues, anything like  
19 that?

20 A. No.

21 Q. What did you do after you left  
22 Kettering?

23 A. I began just working.

24 Q. Okay. Where were you working?

25 A. I worked at a nursing home called

1 Bethany Village.

2 Q. How long did you work there?

3 A. For five years.

4 Q. Why did you leave?

5 A. Leave where?

6 Q. The nursing home.

7 A. That's when I started the police  
8 academy.

9 Q. Okay. And what year was that?

10 A. 2015.

11 Q. Okay. And the police academy, is  
12 that attached to any particular police department  
13 or is that just in Ohio, the --

14 A. It's the Dayton -- it's Dayton Police  
15 Department's academy.

16 Q. Okay. How long was your training at  
17 the academy?

18 A. Six months.

19 Q. Six months. And after you got out of  
20 the academy, how did that segue into, I'm  
21 assuming, your current job?

22 A. Yeah, I was hired by the City of  
23 Dayton. I started the police academy. Upon  
24 graduation I'm assigned to a patrol district.

25 Q. Okay. You said, I'm sorry, what year

1 was that?

2 A. I started in 2015, graduated in 2016.

3 Q. 2016. At the academy or outside of  
4 the academy what special training did you obtain  
5 in order to work for the police department? And  
6 you can just summarize the topics that you were  
7 taught.

8 A. I mean, there's a -- there's a  
9 variety of topics that you have to cover in the  
10 police academy in order to qualify for the State's  
11 certification to be a police officer.

12 Q. Okay. Can you give me a summary of  
13 those topics or they're kind of hard to remember?

14 A. It's a wide range. I mean, it --  
15 from subject stops to law to defensive tactics to  
16 firearms. It's a lot within six months.

17 Q. Okay. Did you have any other  
18 training outside of that six months, any  
19 subsequent training or --

20 A. For?

21 Q. To be an officer.

22 A. No.

23 Q. Okay. So are you saying that the  
24 only training you've had for your career was  
25 during that police academy?

1           A.     Prior to graduating and becoming a  
2     police officer, yes.

3           Q.     Okay.   So what about after you became  
4     a police officer?

5           A.     There's yearly trainings that we go  
6     through.   Trainings through our electronic system,  
7     Power DMS that we receive.   That's common.   We  
8     commonly get trained through Power DMS and do  
9     trainings every year that cover different topics.

10          Q.     Okay.   Have you only worked solely  
11     for the police department or have you had any  
12     assignments that have lent you out to another  
13     agency, any task force or anything like that?

14          A.     My sole job has been the police  
15     department since getting hired.

16          Q.     Okay.   Since you've been hired with  
17     the police department, have you -- other than this  
18     situation here, have you been notified of any oral  
19     or written complaints against you?

20          A.     No, I don't believe so.   No oral or  
21     written complaints, no.

22          Q.     Okay.   Have you ever been  
23     reprimanded?

24          A.     Yes.

25          Q.     Could you -- one time or more than

1       once?

2               A.     I believe I've been reprimanded twice  
3       in my entire career.

4               Q.     Okay. I want to take them one by  
5       one. Can you explain to me the first time you  
6       were reprimanded what happened?

7               A.     I received a -- I think a written for  
8       a traffic accident, which was one of my prior  
9       lawsuits.

10              Q.     What happened in that accident?

11              A.     I --

12              Q.     How did it happen, I suppose?

13              A.     Basically I wrecked into a lady  
14       going -- in response -- while I was going to a  
15       call for service.

16              Q.     Okay. And the woman filed a lawsuit,  
17       you said?

18              A.     Yes.

19              Q.     Okay. What year was that?

20              A.     I would have to ask the attorneys.

21              Q.     Okay. At some point?

22                     MR. BAZELAK: If you don't know, just  
23       say you don't.

24                     THE WITNESS: Yeah, I don't know.

25       BY MS. SMITH:

1           Q.    Do you know how that case resolved?  
2   Did it go to trial or not?

3           A.    No, I didn't go to trial for it.

4           Q.    Okay.

5           A.    Again, I don't know -- I would have  
6   to direct it to the attorneys.

7           Q.    Do you know where that case was  
8   pending?

9           A.    Meaning?

10          Q.    Was it in state court or federal  
11   court, municipal court?

12          A.    I believe municipal.

13          Q.    And you said you received a second  
14   reprimand?

15          A.    Yes, I think so. I don't -- I can't  
16   recall right now. I don't --

17          Q.    Okay. Now, as far as you know, do  
18   reprimands go into any personnel files?

19          A.    Yes, they go into your disciplinary  
20   record.

21          Q.    And is there an opportunity to purge  
22   that record of reprimands and complaints and those  
23   type of entries?

24          A.    Yes.

25          Q.    How do those entries get removed from

1 your file?

2 A. By request after two years from the  
3 date.

4 Q. Did you make a request for those two  
5 incidents to be removed?

6 A. Yes.

7 Q. Do you recall when you made that  
8 request?

9 A. No.

10 Q. Was your request granted or denied?

11 A. Granted.

12 Q. Both times?

13 A. If -- I made one request. If there  
14 were two times in there, the one request would  
15 cover both incidents --

16 Q. Okay. Got you.

17 A. -- if there were two.

18 Q. Have you ever pled guilty to or been  
19 convicted of a crime other than a traffic  
20 violation?

21 A. No.

22 Q. Okay. When did you first learn about  
23 this deposition?

24 A. I don't remember. Not too long ago.

25 Q. Would it have been within the past

1 week or two weeks?

2 A. No. A couple months ago.

3 Q. Okay. How were you notified?

4 A. In writing.

5 Q. Okay. In a letter, e-mail?

6 A. An e-mail.

7 Q. Did you do anything to prepare for  
8 your deposition today?

9 A. Yes.

10 Q. What did you do?

11 A. Met with --

12 Q. I'm not talking about any  
13 communications with your counsel, just in general  
14 what did you do?

15 A. Reviewed documents.

16 Q. What documents did you review?

17 A. Interrogatories and statements that I  
18 made in the report.

19 Q. Did you speak with anyone outside of  
20 your counsel about the deposition today?

21 A. No.

22 Q. Did you discuss with Officer Vincent  
23 Carter the fact that you two were going to be  
24 deposed today?

25 A. I mean, we both knew we were going to

1 be deposited but --

2 Q. Did you have a conversation about it?

3 A. No.

4 Q. Now, you understand that we're here  
5 to discuss the matters that happened on September  
6 30th, 2021 involving Clifford Owensby, right?

7 A. Yes.

8 Q. Okay. Prior to September 30th, 2021,  
9 did you know or know of Clifford Owensby?

10 A. I had had an encounter with him prior  
11 to that date.

12 Q. Explain to me that encounter.

13 A. I was one of the officers who  
14 conducted a traffic stop on Owensby while he was  
15 driving a minivan -- a white minivan. He had  
16 marijuana inside the vehicle. You could smell the  
17 smell of raw marijuana coming from the vehicle.  
18 Subsequently we assisted him from the vehicle into  
19 a wheelchair onto the sidewalk where he waited  
20 with the front passenger while we searched the  
21 vehicle and located his marijuana.

22 Q. You said you assisted him into a  
23 wheelchair. Was that a wheelchair -- was that his  
24 wheelchair?

25 A. Yes.

1           Q.    Okay.  Do you recall the initial  
2   purpose of the stop?

3           A.    No.

4           Q.    Okay.  And you said he had a  
5   passenger with him --

6           A.    Yes.

7           Q.    -- or it was just him?  Just one  
8   passenger?

9           A.    Yes.

10          Q.    Now, during that stop, do you recall  
11   if a supervisor responded?

12          A.    No, I don't believe one did.  There  
13   was no reason for one to respond.

14          Q.    Okay.  Do you recall if he asked for  
15   a supervisor during that stop?

16          A.    No.  If he would have requested one,  
17   one would have responded.

18          Q.    What is the department's policy when  
19   it comes to calling supervisors?

20          A.    If someone requests a supervisor, one  
21   is to be requested as soon as possible deeming,  
22   you know, the scene is safe, there's no danger to  
23   anyone there.  So once the scene is safe,  
24   everything is under control, at the earliest  
25   convenience a supervisor has to be called.

1           Q.    What is the role of the supervisor  
2 when they actually show up?

3           A.    To field the citizen's complaint or  
4 see if there's any violation of policy or issue or  
5 law or whatever the person is complaining about.

6           Q.    In your experience over the course of  
7 your career, have you ever seen a supervisor  
8 respond to a traffic stop and overrule what the, I  
9 guess, patrol officer has chosen to do?

10          A.    No.

11          Q.    Okay. Would you say that it's in  
12 their prerogative to overrule if they see fit, or  
13 are they just kind of a buffer to explain to the  
14 citizen why the officers acted the way they did?

15               MR. BAZELAK: Objection as to the  
16 form. If you understand it.

17               MS. SMITH: Yeah, that was a little  
18 complicated so let me rephrase it. I'm sorry.

19               MR. BAZELAK: Just overrule is just  
20 where I'm having an issue. Overruling, I don't  
21 know what that means.

22               MS. SMITH: Yeah. Yeah.

23 BY MS. SMITH:

24           Q.    I suppose what I'm trying to ask, is  
25 a supervisor able to, I guess, change or redirect

1     what a patrol officer has done during a stop?

2             A.     Yes.

3             Q.     Okay. But you haven't experienced  
4     that --

5             A.     No.

6             Q.     -- in your career? Okay. Can you  
7     recall any other times prior to September 30th,  
8     2021 and the most recent -- well, I guess not most  
9     recent, but the event you just spoke of that you  
10    encountered Mr. Owensby?

11            A.     I didn't have any other encounters  
12    with Owensby.

13            Q.     Do you recall when that other  
14    encounter was?

15            A.     Sometime in 2020.

16            Q.     Okay. At the time that you stopped  
17    Mr. Owensby on September 30th, 2021, were you  
18    familiar with any members of Mr. Owensby's family  
19    in Dayton?

20            A.     No.

21            Q.     Okay. So as far as you could tell,  
22    the only interaction that you had with Mr. Owensby  
23    or anybody else that you would have been aware of  
24    would have been in 2015?

25            A.     Correct.

1           Q.    I want to kind of take it slow  
2   because I want to kind of understand how you came  
3   to be in contact with Mr. Owensby on September  
4   30th, 2021.   How did you become aware of him?

5           A.    We were contacted by Cody Hartings,  
6   who was conducting surveillance.   Hartings had  
7   told us that there was a vehicle leaving a house  
8   that he was watching for suspected narcotics and  
9   he requested we make a traffic stop on the car.

10          Q.    And who is Cody Hartings?

11          A.    Cody Hartings at the time, he was a  
12   detective in the narcotics bureau working closely  
13   with detectives of the DEA.

14          Q.    Okay.   And when he called, how did he  
15   call?   Was it on a radio or on the phone?

16          A.    I remember him making contact with us  
17   over the radio, giving us the location and the  
18   type of car, and then giving us the details of the  
19   direction the car was heading when it left the  
20   house.

21          Q.    And where were you actually when you  
22   received that call?

23          A.    I don't remember.

24          Q.    Who were you with?

25          A.    I was the passenger.   Vincent Carter

1 was the driver.

2 Q. Okay. So you guys were driving  
3 around --

4 A. Yes.

5 Q. -- and had the radio?

6 A. Yes.

7 Q. Okay. So Detective Hartings says I  
8 see a vehicle in front of this house. Did he ask  
9 you to initiate a traffic stop, or what did he  
10 want you to do once he alerted you that there was  
11 this car in this drug area?

12 A. Yeah, he requested a traffic stop be  
13 initiated on the vehicle.

14 Q. Okay. Did he suggest to you any  
15 basis for a traffic stop, or did he just inform  
16 you that the car needed to be stopped?

17 A. I believe he told us the car had  
18 window tint, but we would later confirm that by  
19 seeing the vehicle and noticing the window tint  
20 ourselves.

21 Q. Do you know why he wanted you to stop  
22 the vehicle?

23 A. I mean, it's his investigation.

24 Q. Okay. How long after you received  
25 that car -- that call did you catch up with the

1 car?

2 A. I don't remember.

3 Q. Was it less than a half hour?

4 A. Yes.

5 Q. Do you think it was less than twenty  
6 minutes?

7 A. Yes.

8 Q. Less than ten minutes?

9 A. Maybe. Around there.

10 Q. So you guys weren't too far away?

11 A. No.

12 Q. Okay. Do you recall what your patrol  
13 was that day?

14 A. What do you mean?

15 Q. What area of Dayton you were assigned  
16 to patrol or were you just all over?

17 A. I worked for GPM, Greater Dayton  
18 Premier management. Officer Carter was assigned  
19 to west POD carpet to the community problem  
20 response team. Our task -- we could go anywhere  
21 in the city, but mainly our focus was west Dayton,  
22 anywhere in west Dayton we patrol.

23 Q. Okay. Now, you said the first one a  
24 little fast. I've heard of the other one. What's  
25 the difference between the two -- what would you

1 call them? I wouldn't call them an organization.

2 A. We call them task forces.

3 Q. Task forces. What is the difference  
4 between the two task forces that you and Officer  
5 Carter were a part of?

6 A. Officer Carter's focus was more on  
7 complaints fielded by citizens throughout west  
8 Dayton. My -- my focus was more complaints  
9 fielded by management and people who live in the  
10 low-income housing properties throughout the city.

11 Q. And are those just any complaints or  
12 complaints of a certain nature?

13 A. My complaints are any complaints.  
14 Officer Carter's complaints were complaints of a  
15 certain nature, primarily guns and narcotics.

16 Q. And being on that task force, is that  
17 your everyday job -- or at that time was it your  
18 everyday job or was it only certain days out of  
19 the week you operated in conjunction with the task  
20 force?

21 A. No, that was our everyday job.

22 Q. Okay. So explain to me after you get  
23 the radio saying, hey, Mr. Owensby -- well, you  
24 didn't get Mr. Owensby, you got a car that was  
25 driving that needed to be pulled over, what

1     happened?

2             A.     So yeah, we were told it was a white  
3     sedan leaving the address and the direction. It  
4     was traveling eastbound on West Grand. I don't  
5     remember what street we came off of, but we then  
6     noticed the vehicle still traveling eastbound on  
7     West Grand. Noticed the equipment violation and  
8     conducted the traffic stop.

9             Q.     What was your role in the traffic  
10    stop?

11            A.     I was the secondary officer. Officer  
12    Carter was the primary contact officer.

13            Q.     And how did you effectuate that stop  
14    initially?

15            A.     As in?

16            Q.     Did you get on the horn and tell him  
17    to stop? Did you --

18            A.     No.

19            Q.     -- turn on the lights?

20            A.     Yeah, we activated our lights.

21            Q.     Okay. And did Mr. Owensby come to an  
22    immediate stop or did he take a while to stop?

23            A.     He came to a stop. It wasn't  
24    immediate or abrupt, but it was reasonable.

25            Q.     Once he stopped, I'm assuming you

1     parked -- or Officer Carter parked the car, who  
2     made initial contact with Mr. Owensby?

3             A.     As I said, Officer Carter was the  
4     primary contact so he would make the initial  
5     contact, explain the reason for the stop, explain  
6     who he was.

7             Q.     Did you exit the cruiser and approach  
8     the car at the same time as Officer Carter --

9             A.     Yes.

10            Q.     -- or did you come later? Same time?

11            A.     Same time.

12            Q.     And what side did you approach from?

13            A.     As secondary, I approached from the  
14     passenger side.

15            Q.     Did you say anything to Mr. Owensby  
16     at that time?

17            A.     No.

18            Q.     Did you recognize the driver as being  
19     Clifford Owensby when you approached the car?

20            A.     No.

21            Q.     Okay. At any time during the stop  
22     did you recognize the driver to be the driver that  
23     you had pulled over in 2020?

24            A.     No.

25            Q.     Okay. At what point in the stop --

1 well, did you hear Officer Carter tell Mr. Owensby  
2 why he was being pulled over?

3 A. I heard Officer Carter talking to  
4 Mr. Owensby. My focus at the time was to see if I  
5 could see anything in plain view.

6 Q. Did you see anything in plain view?

7 A. Nothing of contraband.

8 Q. Were you looking for anything in  
9 particular based on the call that you had gotten  
10 from Detective Hartings?

11 A. Yeah. So as a secondary officer, as  
12 I said, I'm looking for what's in plain view.  
13 What I'm looking for more specifically are weapons  
14 that are readily available, within reach that  
15 could potentially harm us at that time. That's  
16 what I'm looking for are weapons.

17 Q. Did you have any reason to believe in  
18 particular that Mr. Owensby had any weapons on  
19 him?

20 A. Prior to Officer Carter running his  
21 information, yes, I did.

22 Q. Could you explain?

23 A. It's common knowledge that  
24 individuals who partake in narcotics are often  
25 armed to protect their product. Being that this

1 is a narcotics investigation, the chance and  
2 likelihood of him being armed is high.

3 Q. Was there anything else that you  
4 might think Mr. Owensby would be in possession of  
5 based off of this narcotics investigation other  
6 than firearms?

7 A. A weapon is not just sim -- just a  
8 firearm. I mean, you could potentially have a  
9 knife that's a deadly weapon, but also narcotics.

10 Q. Okay. And explain to me again the  
11 connection between narcotics and weapons.

12 A. The connection is, is that  
13 individuals who, again, partake in dealings with  
14 narcotics arm themselves to protect their product  
15 or protect being robbed.

16 Q. Robbed of their product?

17 A. Yes.

18 Q. Potentially robbed of money?

19 A. Potentially.

20 Q. So you guys believe that he might  
21 have some money with him?

22 A. I mean, that's a potential. But,  
23 like I said, at the time my main focus was  
24 weapons.

25 Q. Would you have -- with your

1 experience over the past I guess it would be six  
2 years, that along with drugs and guns or firearms  
3 or weapons, money is also in that group --

4 A. Yes.

5 Q. -- of things that go together?

6 A. Yes.

7 Q. Okay. So you didn't see anything in  
8 plain view, correct?

9 A. I didn't see any weapons of concern  
10 at that time in plain view.

11 Q. Okay. After not having seen any  
12 weapons in plain view, what did you do next?

13 A. I waited until Officer Carter began  
14 to walk away from the vehicle.

15 Q. Did you wait outside or in the  
16 cruiser?

17 A. I returned to the cruiser with  
18 Officer Carter.

19 Q. Okay. Did you guys have any  
20 conversation once you returned to the cruiser?

21 A. Yeah. Officer Carter ran the driver,  
22 who was later found out to be Clifford Owensby,  
23 his information. He was able to pull up a driving  
24 status, check for warrants, field interview cards  
25 which tells the history that we've had with him,

1 and he informed me that the driver, Owensby, did  
2 have a criminal history of guns and drugs and  
3 failure to comply with law enforcement or police.

4 Q. Did you actually read that  
5 information yourself or did Officer Carter just  
6 communicate that to you?

7 A. No, I didn't read that for myself.  
8 Officer Carter just summarized it for me.

9 Q. Okay. At that point a ticket was  
10 being written.

11 A. Yes, Officer Carter did start to  
12 write the ticket, the traffic citation.

13 Q. Do you know what the citation was  
14 being issued for?

15 A. At the least, to my knowledge at the  
16 time, window tint.

17 Q. At some point you tested the tint of  
18 the window, correct?

19 A. Yeah, to complete the citation we  
20 have to test the window tint.

21 Q. Do you recall if you tested the  
22 window tint before or after he started writing the  
23 ticket?

24 A. It was right as he was beginning, so  
25 I would say after.

1           Q.    Okay.  And at that point you got  
2   whatever the percentage was so that it could be  
3   specific for the ticket, right?

4           A.    Right.

5           Q.    Okay.  After you tested the window,  
6   came back to the cruiser and gave that information  
7   to Officer Carter, what did you do?

8           A.    I waited in the cruiser for the K-9  
9   to arrive.

10          Q.    So at some point you called a K-9?

11          A.    Yes.

12          Q.    When did you call the K-9?

13          A.    When Officer Carter had informed me  
14   that -- of Owensby's history.

15          Q.    And how did you call the K-9; on the  
16   car radio, on a body radio?

17          A.    I believe -- it was the body radio.

18          Q.    Okay.  Based on the investigation,  
19   why didn't you call the K-9 earlier?

20          A.    I -- I don't know.  It didn't matter.  
21   I figured -- believed the K-9 would arrive within  
22   time anyway, so.

23          Q.    Okay.  But you knew that you were  
24   going to call a K-9 at some point?

25          A.    Eventually.  The likelihood of

1 calling a K-9 was high.

2 Q. Was there anything that would have  
3 led you to make the decision to not call the K-9?

4 A. No, I think I would have just called  
5 the K-9. Just reassurance.

6 Q. Because we can agree that the tint  
7 was a pretext for searching the car, right?

8 MR. BAZELAK: Objection.

9 THE WITNESS: No, the tint is not a  
10 pretext for searching the car.

11 BY MS. SMITH:

12 Q. The detective wanted to find guns or  
13 other contraband in the car, right?

14 MR. BAZELAK: Objection.

15 THE WITNESS: I don't -- I can't  
16 speak for what the detective wanted to do.

17 BY MS. SMITH:

18 Q. The purpose of the stop was to  
19 further an investigation into the drugs and  
20 contraband, correct?

21 A. Yes.

22 Q. And to seize that from the driver if  
23 he had it, right?

24 A. I think that would be the purpose of  
25 any police investigation where drugs and narcotics

1 are found.

2 Q. Right. And in your experience, and  
3 correct me if I'm wrong, typically drugs and guns  
4 are not just on the dashboard, right?

5 A. Correct.

6 Q. You have to search the car to find  
7 those things, right?

8 A. Oftentimes, yes, you have to conduct  
9 a search to locate it.

10 Q. Okay. About how long do you -- if  
11 you can recall, how long did you sit in the  
12 vehicle after you called the K-9 before you  
13 approached Mr. Owensby's driver's side?

14 A. It was seven minutes from the time  
15 the stop was initiated until the K-9 arrived.

16 Q. You were in the car the entire time?

17 A. I made my initial approach. I made a  
18 second approach to test the tint. And the third  
19 time I approached the vehicle was to remove  
20 Owensby from the vehicle because the K-9 was  
21 arriving.

22 Q. Okay. So from that second time that  
23 you went to the cruiser to notify Officer Carter  
24 of the percentage of opacity of the window, about  
25 how much time, if you can recall, elapsed from

1       that moment to you approaching Mr. Owensby's car?

2               A.     That I don't know.

3               Q.     When you left the police cruiser to  
4       speak with Mr. Owensby, do you know if Officer  
5       Carter was still writing the traffic citation?

6               A.     At which time?

7               Q.     When you finally went to go tell him  
8       he needed to remove himself from the vehicle.

9               A.     I asked to help him remove himself  
10      from the vehicle, but Officer Carter was still in  
11      the cruiser filling out the citation.

12              Q.     Okay. And at the moment you stepped  
13      out of the car, the K-9 was there, correct?

14              A.     Yeah. I observed Detective Stewart,  
15      his K-9 cruiser, approaching from the east to our  
16      stop.

17              Q.     So he wasn't actually there, he was  
18      down the street; is that right?

19              A.     No. The traffic stop happened at an  
20      intersection.

21              Q.     Okay.

22              A.     Detective Stewart and his K-9 partner  
23      were just across the street at the stop sign.

24              Q.     Okay. How many feet away would you  
25      say?

1           A.     Thirty feet.

2           Q.     Okay. You said a stop sign or a  
3 stoplight?

4           A.     Stop sign.

5           Q.     Stop sign. Okay. So from the moment  
6 you saw him at the stop sign to getting across the  
7 street, how many seconds do you think that would  
8 be?

9           A.     I was speaking with Owensby when he  
10 was parking his cruiser.

11          Q.     Do you recall what you first said to  
12 Mr. Owensby when you first came to his driver's  
13 side window?

14          A.     No, not exactly.

15          Q.     At the time -- well, actually, when  
16 during the stop did you become aware that  
17 Mr. Owensby suffered from paraplegia?

18          A.     When Officer Carter and I returned to  
19 the vehicle after our first approach.

20          Q.     When you were testing the tint?

21          A.     Prior to that.

22          Q.     Prior to that. So when you initially  
23 went to the passenger side and Officer Carter went  
24 to the driver's side?

25          A.     It was when Officer Carter was

1 running Owensby's information.

2 Q. Okay. Did you find out through the  
3 information that was being gathered in the cruiser  
4 or did you find out from Mr. Owensby?

5 A. I found out from Officer Carter.

6 Q. Officer Carter. Okay. And what did  
7 Officer Carter say to you that notified you that  
8 Mr. Owensby had paraplegia?

9 A. I don't recall his exact words.

10 Q. Did he -- do you recall if he just  
11 told you that he had paraplegia, or did he tell  
12 you that Mr. Owensby told him that he had  
13 paraplegia, or do you not recall?

14 A. Officer Carter had relayed to me that  
15 he suffered from paraplegia. How -- I don't know  
16 how Officer Carter became aware of that.

17 Q. At that time how familiar were you  
18 with paraplegia?

19 A. I, from my prior job, had had  
20 experience with dealing with individuals who had  
21 paraplegia.

22 Q. Without violating any HIPAA, did you  
23 have any patients that suffered from paraplegia or  
24 was that just something in general the nursing  
25 home dealt with?

1           A.    I don't recall how many patients I  
2    had that suffered from paraplegia, but I dealt  
3    with several individuals and patients who suffered  
4    from immobility.

5           Q.    And during that experience, were you  
6    able to learn a little bit about the disability of  
7    those unable to ambulate, unable to use their  
8    extremities?

9           A.    Yes, that was the -- one of the tasks  
10   of my job was assisting those people who --

11          Q.    And I might not have asked you, what  
12   were your job responsibilities at the nursing  
13   home?

14          A.    At the nursing home I was a nurse's  
15   aide. I assisted people mainly with transfers and  
16   daily living exercises and activities.

17          Q.    Okay. And during that career did you  
18   ever have to transfer anyone who had paraplegia?

19          A.    Again, I mean, I transported several  
20   immobile people. The degree or their actual  
21   reason for being immobile, it varies.

22          Q.    Yeah. I understand.

23          A.    Did I deal with paraplegia? Yeah.  
24   Did I just deal with people who couldn't walk?  
25   Yes.

1           Q.    And I would imagine that would have  
2    taken some sort of training to know how to  
3    transport those with mobility issues?

4           A.    Yes.

5           Q.    Okay.  What kind of training did you  
6    have in that type of transport?

7           A.    I mean, I was trained on proper  
8    techniques for transport.  I had to maintain a  
9    State certification to continue that kind of work.

10          Q.    Were you taught anything special  
11   about how those with mobility issues should be  
12   transported to keep them from suffering injury?

13          A.    Transferred or transported?

14          Q.    Transferred, transported, both.

15          A.    There's a difference.

16          Q.    I know.  If you could take them both.  
17   Let's do transport first.

18          A.    In a nursing home, people with  
19   disabilities generally are transported around with  
20   assistive equipment depending on the level of  
21   their immobility.

22          Q.    So an individual with moderate  
23   immobility would be transported differently than  
24   somebody with severe immobility, correct?

25          A.    Again, in a nursing home, it's -- you

1 try to encourage the patient to move around to the  
2 best of their ability with the least amount of  
3 assistance. Most of the time, you know, they're  
4 just bound to a wheelchair.

5 Q. Now, when it comes to transferring,  
6 what kind of special techniques did you learn to  
7 ensure that those with mobility issues were  
8 transferred safely, whether it was from a bed to a  
9 wheelchair, wheelchair to a bed, or what have you?

10 A. The technique is -- it's fairly a  
11 simple technique. You try to transfer from high  
12 to low. If you can't, I mean, to the best of your  
13 ability and with as much assistance as possible  
14 to -- and with the cooperation of the person being  
15 transferred, limit injury, especially in the  
16 elderly with pulls and tears of the skin. But  
17 it's a simple technique. You kind of grab them  
18 around the waste. Again, if there's assistive  
19 equipment available, then you use that. And it's  
20 a pivot from one surface to another.

21 Q. In that job, did you find that those  
22 with mobility issues might be more prone or more  
23 susceptible to suffering injury if not transferred  
24 appropriately?

25 A. Yes.

1 MR. BAZELAK: Objection. Go ahead.

2 Sorry.

3 BY MS. SMITH:

4 Q. Coming back to the stop -- I  
5 appreciate you giving me that information. I  
6 didn't know some of the things that you said.

7 You had found out from Officer Carter  
8 that Mr. Owensby suffered from paraplegia. The  
9 K-9 had arrived from across the street after  
10 having crossed over from the stop sign. And you  
11 are at Mr. Owensby's window. You said that you  
12 did not recall exactly what you said to him when  
13 you first approached, correct?

14 A. Correct.

15 Q. Do you recall what Mr. Owensby said  
16 to you?

17 A. Initially, no. I mean, I recall  
18 statements that we both said.

19 Q. What were those statements?

20 A. There were statements from me that I  
21 offered assistance. I asked him how I could help  
22 him. There were statements from him that he was  
23 not getting out of the car. That he would file a  
24 lawsuit. He wanted a white shirt.

25 Q. Okay. And a white shirt or a

1 supervisor was not called, right, at that moment?

2 A. Right. At that moment.

3 Q. Why is that?

4 A. Because at that moment I cannot be  
5 sure that the scene was safe and that Owensby was  
6 not armed. As I explained earlier and as I  
7 explained to Owensby at the time, a supervisor  
8 would be called later. First and foremost the  
9 scene needed to be safe, make sure he was not  
10 armed or he did not have the ability to reach a  
11 weapon while he was there.

12 Q. While you were at the side of  
13 Mr. Owensby's car, did you ever notice him  
14 reaching for or grabbing at anything?

15 A. At which point when I was at the side  
16 of the car?

17 Q. When you were telling him to step  
18 out.

19 A. No.

20 Q. Were his hands always where you could  
21 see them?

22 MR. BAZELAK: At what point in time?  
23 Again, just at that initial --

24 BY MS. SMITH:

25 Q. Yeah, we're just talking at that

1 initial -- at the car window, you had just told  
2 him to get out. This is the first kind of order  
3 to be removed from the vehicle?

4 A. Yeah, I don't recall where his hands  
5 were exactly.

6 Q. Understanding the type of  
7 investigation that had been occurring and the  
8 officer -- I'm sorry, the detective having  
9 instructed you and Officer Carter to stop the  
10 vehicle, when you first approach the car, were you  
11 concerned that Mr. Owensby might be armed and  
12 dangerous?

13 A. So the detective asked us if we could  
14 make a stop on the vehicle, and, yes, as explained  
15 earlier, it's a narcotics investigation, the  
16 likelihood of him being armed is high. So the  
17 fear that there was a weapon in the vehicle was  
18 high.

19 Q. Why didn't you ask him to get out of  
20 the vehicle when he was initially stopped?

21 A. At that time I could have asked him  
22 to get out of the vehicle, but I wanted to wait  
23 until the K-9 was closer and/or in this case on  
24 scene.

25 Q. I just want to make sure that I

1 understand. The concern with there being a  
2 firearm in the vehicle was your own safety, right?

3 A. The safety of me, Officer Carter, and  
4 others around.

5 Q. Right. So that wouldn't be  
6 contingent on the K-9 being there, right?

7 A. I could have asked Owensby to exit  
8 the vehicle at that time, but we decided to wait a  
9 little longer.

10 Q. Why?

11 A. Because we were -- we were going --  
12 well, later on when we requested the K-9, we were  
13 going to wait for the K-9 to get there.

14 Q. Okay. So you weren't concerned for  
15 your safety prior to the K-9 arriving?

16 MR. BAZELAK: Objection.

17 THE WITNESS: No, I was concerned  
18 with my safety, that's why I returned back to the  
19 cruiser and didn't just stand on the side of the  
20 car.

21 BY MS. SMITH:

22 Q. Could other people have been hurt if  
23 he was dangerous and you were safe in your car?

24 A. Potentially. But at that moment  
25 there was no one around.

1           Q.     Okay.    So there wasn't a safety  
2     issue?

3                   MR. BAZELAK:   Objection.   He already  
4     said there was, but go ahead, say it again.

5                   THE WITNESS:   Yes, there was a safety  
6     issue.   But a risk on our part with no one around,  
7     we returned to our cruiser.

8     BY MS. SMITH:

9           Q.     So what had changed between the  
10    initial stop and you now asking Mr. Owensby out of  
11    the vehicle, what had changed that now raised a  
12    danger issue?

13           A.    To further the investigation, the K-9  
14    arrived.   The free air sniff needed to be  
15    conducted, and for that to be conducted, Owensby  
16    needed to be removed from the vehicle.

17           Q.    Is it your -- well, I guess what's  
18    your understanding of the sequence when a free air  
19    sniff is to be conducted, what is the sequence of  
20    having someone removed from the car?   Is the  
21    person to be removed when a K-9 is en route or  
22    when a K-9 is actually on scene?

23           A.    A person can be removed prior to a  
24    K-9 arriving.   But with the K-9 being there, it  
25    was time for Owensby to be removed from the

1 vehicle.

2 Q. What would be the reason for removing  
3 a person from their vehicle prior to a K-9  
4 arriving?

5 A. As an officer, we can ask anybody to  
6 step out of a vehicle while they're being issued  
7 their citation. If the K-9 arrives in a timely  
8 manner, then the free air will be conducted. And  
9 if not, the person would receive their citation  
10 and be let go.

11 Q. And all of this is operating under  
12 the City of Dayton's Police Department policy,  
13 right?

14 A. The policy, the City of Dayton Police  
15 Department, and case law.

16 Q. So explain to me what happened  
17 from -- and we talked about it a little bit --  
18 from you asking Mr. Owensby to get out of the  
19 vehicle to him actually being removed from the  
20 vehicle? Could you describe that process?

21 A. Yeah. He was offered assistance to  
22 get out of the vehicle -- be removed from the  
23 vehicle. We had already had a plan in place on  
24 what we were going to do with him due to his  
25 disability. Instantly was met with passive

1 resistance by his verbal statements that he was  
2 not going to exit the vehicle.

3 After attempts to offer him  
4 assistance, I then reached in to grab his right  
5 arm, at which point Owensby slapped my hand away.  
6 I then again reached in to grab him. He leaned  
7 further into the vehicle away from me. While I'm  
8 trying to pull him from the vehicle, he's using  
9 both his hands to press against me and fight me  
10 making it more difficult for me to try to remove  
11 him from the vehicle.

12 At a point in time he then grips the  
13 steering wheel again preventing me from removing  
14 him from the vehicle and which it takes several  
15 officers to remove him.

16 Q. Now, you said that you offered  
17 assistance and that you had a plan for once he was  
18 out of the vehicle. What assistance were you  
19 offering?

20 A. The assistance to help him get out of  
21 the vehicle. Unfortunately he didn't have any of  
22 his assistive equipment that would have made it  
23 easy, but he needed to be out of the vehicle in  
24 order for the free air to be conducted to further  
25 the investigation.

1           Q.    When did it come to your attention  
2   that he didn't have any of his assistive  
3   equipment?

4           A.    From looking around the car, I didn't  
5   see a wheelchair.

6           Q.    When would you say a -- at what point  
7   during the stop did you realize that he didn't  
8   have a wheelchair in there, at his vehicle?

9           A.    I would say when I tested the window  
10   tint and I noticed that there was a toddler in the  
11   back seat not in a car seat.

12          Q.    And if I'm remembering the sequence  
13   right, you tested the window and then you called  
14   for the K-9; is that right?

15          A.    No.   The K-9 was called after the  
16   first approach.

17          Q.    Okay.   But then you went into the  
18   car -- the cruiser to wait for the K-9 to come  
19   after you tested the window?

20          A.    Yes.

21          Q.    During that time, is there anybody  
22   you could have called to say, hey, we have a  
23   paraplegic man here and he doesn't have a  
24   wheelchair, can we get some assistance here?

25          A.    No.

1           Q.     Does the Dayton Police Department  
2     have any protocol in place to assist those with  
3     disabilities or mobility issues during traffic  
4     stops?

5                   MR. BAZELAK:   Objection as to form.  
6     Go ahead.

7                   THE WITNESS:   The Dayton Police  
8     Department doesn't have anything in place for  
9     people with mobility issues.

10    BY MS. SMITH:

11           Q.     Again, if the police are called to --  
12    respond to any call and an individual is there  
13    with mobility issues requiring assistance, what  
14    would you as an officer do?

15           A.     As an officer, I think it would be  
16    upon that person to have their assistive devices  
17    with them. As a police officer, I can't provide  
18    them assistive equipment. I'm not a therapist  
19    or -- so it's on that person. I will try my best  
20    to accommodate them, but I don't have a wheelchair  
21    in my cruiser.

22           Q.     So when we talk about best efforts to  
23    accommodate, without any equipment available, what  
24    does that look like?

25                   MR. BAZELAK:   In general?   Objection.

1 In general or are we talking about this incident?

2 MS. SMITH: This incident.

3 MR. BAZELAK: Okay.

4 THE WITNESS: First and foremost, it  
5 requires cooperation from the other person, that's  
6 the easiest and best way to accommodate safely.

7 Then taking their opinion into  
8 consideration on how to do this so that they feel  
9 safe and establishing a plan so that they remain  
10 safe.

11 BY MS. SMITH:

12 Q. If a person is uncooperative, does  
13 that mean that all concerns of safety are out the  
14 window?

15 A. No, that's not what that means.  
16 Unfortunately in this case the person was  
17 uncooperative and safety still matters, but that  
18 now heightens my fear that my safety is more at  
19 risk and the safety of the other officers there is  
20 more at risk because of their uncooperativeness.

21 Q. As you were removing Mr. Owensby from  
22 the vehicle, what did you do to keep in mind his  
23 own safety?

24 A. To ensure Mr. Owensby's safety, I  
25 tried to gain control, maintain control of his

1 hands. He made that difficult with his active  
2 resistance. But to help him stay as safe as  
3 possible, the goal was just to remove him from the  
4 vehicle and place him onto the ground.

5 Q. Now, what was your plan for removing  
6 Mr. Owensby -- had this resistance not occurred,  
7 what was your plan for removing Mr. Owensby from  
8 the vehicle?

9 A. Our plan, in which we had conducted  
10 twelve hours before, was to remove him from the  
11 vehicle, place him near the curb in the grassy  
12 area, which is a softer area for him to sit on and  
13 out of the lane of traffic of travel. One of us  
14 would have stood with him to make sure that he was  
15 all right during this investigation.

16 Q. And did you plan to grab his waist,  
17 kind of how you described earlier at the nursing  
18 home, in order to remove him?

19 A. Yeah, to the best of our ability, we  
20 would try to grab to support most of his body  
21 weight near the waist or below him and help  
22 support most of his body weight.

23 Q. Would you have been concerned about  
24 his legs hitting or dragging on the ground?

25 A. Had he cooperated, no. We would have

1     been able to ensure that his feet or legs would  
2     have drug on the ground or he would have not had  
3     any injuries.

4             Q.     Was there -- well, let me go in a  
5     different direction. In the time since you've  
6     been an officer, had you had any training on  
7     accommodating or interacting with individuals with  
8     disabilities during traffic stops?

9             A.     Yes. We receive training on dealing  
10    with subjects with disabilities.

11            Q.     Did that disabilities training  
12    include those who have mobility issues?

13            A.     No, but as an officer and in my case  
14    someone with experience with that, I have  
15    training. We try to always accommodate those with  
16    disabilities to the best of our ability.

17            Q.     When was the last time you had  
18    training on accommodating individuals with  
19    disabilities prior to September 30th, 2021?

20            A.     I couldn't give you a date. I don't  
21    recall.

22            Q.     And, now, you mentioned that you had  
23    been involved in a traffic stop with another  
24    paraplegic man the night before, correct?

25            A.     I can't say that he was paraplegic,

1 but he did have immobility issues.

2 Q. Okay. He had mobility issues. So  
3 you had been working the night before?

4 A. Yes.

5 Q. What time would you say you got off  
6 your shift that night before --

7 A. I don't remember.

8 Q. -- on September 29th?

9 A. I don't remember.

10 Q. Okay. Would it have been before  
11 midnight?

12 A. I don't remember.

13 Q. You're not sure? Do you recall what  
14 time you came into work on September 30th, 2021?

15 A. No. It was mid-morning sometime I'm  
16 sure. I don't remember.

17 Q. Was that your scheduled shift or did  
18 you come in early or later on September 30th?

19 A. I worked various hours.

20 Q. What are the shifts like? What are  
21 they, eight hours, ten, twelve?

22 A. They are ten-hour shifts.

23 Q. And is Officer Vincent Carter your  
24 partner -- or was he your partner at the time?

25 A. Yes, he was my partner at the time.

1 Q. Is he still your partner now?

2 A. No.

3 Q. Now, you said that you and two other  
4 officers had to assist in getting Mr. Owensby out  
5 of the vehicle, correct?

6 A. Yes.

7 Q. Can you describe where your hands  
8 were on Mr. Owensby's body when you were removing  
9 him from the vehicle?

10 A. At which time? Which part of the  
11 removal I should say?

12 Q. Toward the end when he's finally  
13 about to be extricated from the car.

14 A. Yeah, I grabbed Owensby's hair. I  
15 pulled his hair. That technique induces pain and  
16 pain will encourage compliance so to grab -- to  
17 grab and pull his hair initially is to cause pain  
18 to gain compliance and then also, as I said  
19 earlier, the goal was to get him to the ground.  
20 It was a low car so the distance from his seat to  
21 the ground was not high, or much. I directed his  
22 head out of the vehicle toward the ground.

23 Q. When you say pulling hair causes  
24 pain, where does it cause pain in the body?

25 A. It causes pain to the scalp.

1           Q.    Okay.  Is it limited to the scalp,  
2   the pain?

3           A.    Yes, it's a -- it's a limited pain  
4   area.  It's pulling of the hair.  The hair is  
5   located on the head.

6           Q.    Did you have both of your hands in  
7   his hair?

8           A.    I don't recall.

9           Q.    Okay.  Now, the other officer is with  
10   you, they also were helping to remove him from the  
11   vehicle at that time of the stop when he's finally  
12   about to be out of the car, right?

13          A.    Yes, it was Officer Carter and I on  
14   the driver's side, and then Detective Stewart had  
15   helped remove Owensby's hand from the steering  
16   wheel from the passenger's side.

17          Q.    Is that all that Officer Stewart did  
18   to help remove Mr. Owensby?

19          A.    Yes.

20          Q.    Officer Carter, how did he help in  
21   the efforts to remove Owensby from the car?

22          A.    I can't tell you what his exact  
23   technique was or what he did, but the -- we were  
24   on the same goal, which was to remove Owensby from  
25   the car, so he was pulling him from the vehicle.

1           Q.    Did Mr. Owensby give any indication  
2   that he was in pain or discomfort as he was being  
3   pulled out of the vehicle?

4           A.    He yelled, but from my experience,  
5   that's typical of an uncompliant -- like someone  
6   who is not being compliant and resisting, they're  
7   going to yell. I don't recall if he said he was  
8   in pain or if he was hurting -- if we were hurting  
9   him or not, but, again, my goal was to cause pain  
10  to gain compliance. I didn't want to use strikes.  
11  I just wanted compliance from Owensby using the  
12  least amount of force.

13          Q.    So because you were trying to cause  
14  pain, any comments he might have made about being  
15  in pain would have been a nonfactor to you?

16               MR. BAZELAK:  Objection.

17               THE WITNESS:  Any comments he had  
18  about pain -- pain from where? I mean, I -- if  
19  it's from his head, yeah, I know I'm causing you  
20  pain. It's because I'm wanting you to work with  
21  me and cooperate with me so we can get you removed  
22  from the car as safe as possible.

23               BY MS. SMITH:

24               Q.    Did you ever ask him what hurts?

25               A.    At that time what hurt wasn't of a

1 priority to us because our safety was priority at  
2 the time.

3 Q. Now, when Mr. Owensby hit the ground,  
4 did you make any efforts to soften the impact or  
5 lessen the impact of his back hitting the ground?

6 A. I don't believe that he hit the  
7 ground. Hit the ground sounds like he violently  
8 fell. As I explained earlier, the distance from  
9 the seat of the car to the ground, it's a  
10 low-riding car.

11 Q. How would you describe it if he  
12 didn't hit the ground? What would you say  
13 happened?

14 A. We were -- we had -- we had  
15 control -- I wouldn't say control, but we grabbed  
16 Owensby, removed him from the car, and we placed  
17 him on the ground. We didn't -- the way you word  
18 it, it sounds like we dropped him.

19 Q. Okay. So you placed him on the  
20 ground?

21 A. Yes.

22 Q. Okay. And when he was on the ground,  
23 what happened?

24 A. He continued to actively resist us  
25 trying to push himself off the ground to roll

1 over. We continued our efforts to gain control  
2 and place him in handcuffs.

3 Q. What were those efforts to gain  
4 control?

5 A. Verbal commands for him to stop.  
6 Both Officer Carter and I fighting to gain control  
7 of both his hands and place them behind his back  
8 due to his resistance, and then, like I said, put  
9 him in handcuffs.

10 Q. Do you recall a time where you or  
11 Officer Carter placed your knees on Mr. Owensby's  
12 body to get him under control?

13 A. No, I don't recall. I don't recall  
14 doing that.

15 Q. Okay. Do you think that placing a  
16 knee on an individual's body as they're on the  
17 ground and resting one's weight on that person, do  
18 you think that's an appropriate way to, quote,  
19 unquote, get somebody under control?

20 MR. BAZELAK: Objection.

21 THE WITNESS: Yes. It's actually an  
22 effective way. For example, if you place your  
23 knee just above someone's buttocks, it prevents  
24 them from gaining footing and getting up and  
25 prevents them from being able to fight you.

1 BY MS. SMITH:

2 Q. Do you believe -- and that's  
3 standard. Is that appropriate to say that that's  
4 a standard technique of subduing a suspect?

5 A. I would say that it is an effective  
6 technique. If you can't get up, then you can't  
7 fight me.

8 Q. Is that one that is taught at the  
9 academy -- the police academy?

10 A. I would say yes, it's a technique  
11 that we practice at the police academy.

12 Q. Okay. At the police academy are you  
13 taught to modify techniques based on the ability  
14 or the disability of the person being interacted  
15 with?

16 A. No, because a person with a  
17 disability who is actively resisting is just as  
18 dangerous as a fully capable person. Although you  
19 may not have use of your legs, in this case  
20 Owensby was not checked or searched for weapons,  
21 and he still had use of his hands and still posed  
22 a threat to us.

23 Q. Have you ever had a situation where  
24 you've been able to search somebody -- somebody's  
25 person in -- while they're still in their vehicle?

1           A.     No, because you cannot thoroughly  
2     search someone while they're in their vehicle, and  
3     it poses an officer safety thing. Furthermore,  
4     you cannot -- you cannot ensure that there's not a  
5     weapon concealed in that vehicle somewhere around  
6     them.

7           Q.     Okay. So you've never had a  
8     situation where you've seen fit to search somebody  
9     while they are still sitting in their vehicle?

10          A.     I have not, and I would strongly  
11     discourage from doing that because of the threat  
12     it poses to the officer trying to do that.

13          Q.     So I want to talk briefly, before we  
14     go any further, about the ticket that Mr. Owensby  
15     was issued. When Officer Carter joined you at the  
16     side of Mr. Owensby's car and K-9 officer I think  
17     at the time, I think he's a detective now, Stewart  
18     was at the steering wheel, do you know if the  
19     citation had been completed at that time?

20          A.     No, I don't know.

21          Q.     Are you taught how to write citations  
22     at the police academy?

23          A.     Yes.

24          Q.     Can you walk me through what writing  
25     a citation looks like?

1           A.     Our citations are handwritten  
2     citations. After you've gathered all the  
3     information you need to complete a citation,  
4     driver info, vehicle info, in this case the  
5     percentage of the window tint. As a two-man crew,  
6     as Officer Carter and I were on this date, Officer  
7     Carter began writing the ticket. However --  
8     whatever boxes he started writing on first, I  
9     don't know. But all the boxes of the ticket have  
10    to be completed with all the information needed  
11    before issuing the citation.

12           Q.     What for you is typically the last  
13    step of writing a citation? What's the last thing  
14    you put on the ticket?

15           A.     The last thing before issuing the  
16    citation I put on the ticket would be their  
17    current address and phone number.

18           Q.     About how long would you say it takes  
19    to fill out a traffic citation?

20           A.     To complete a traffic citation, it  
21    varies. Fifteen minutes or so. It depends on how  
22    much information you have to gather; suspensions,  
23    reason for the stop.

24           Q.     Now, after Mr. Owensby was  
25    handcuffed, he was taken to a police cruiser,

1 correct?

2 A. Yes.

3 Q. Whose cruiser was he taken to?

4 A. Officer Carter and I's.

5 Q. How did he get there?

6 A. Officer Carter and Officer Darryl  
7 Letlow took him back to the cruiser.

8 Q. Did you see Mr. Owensby being taken  
9 to the cruiser?

10 A. I noticed those two officers taking  
11 him to the cruiser, but I was picking up items  
12 discarded in the street and putting them back the  
13 in the car.

14 Q. What items were in the street?

15 A. A shoe and I think another item.

16 Q. And those were Mr. Owensby's?

17 A. Yes.

18 Q. How did his shoe get in the street?

19 A. It came off his foot.

20 Q. When did it come off his foot?

21 A. Sometime during the removal of him  
22 from the vehicle.

23 Q. Do you know how it came off his foot?

24 A. No.

25 Q. You said you really didn't pay

1 attention to him being taken to the police  
2 cruiser, right, Mr. Owensby?

3 A. That's correct.

4 Q. And I might have asked you this  
5 already and if I did, I'm sorry. When he was on  
6 the ground, did he give any indication that he was  
7 in pain?

8 A. No, he was screaming for help.

9 Q. While he was on the ground, you  
10 pulled him by the hair again, right?

11 A. No, I didn't pull his hair, but I  
12 used his hair as a means to control his head. As  
13 I said, he was trying to push himself off the  
14 ground, and the same technique I used for removing  
15 him from the car, which was directing his head out  
16 of the car, I used it to direct his head and keep  
17 him down to the ground so he could not roll over.

18 Q. Now, when you say direct his head as  
19 opposed to pulling, what is the difference?

20 A. The difference is, is that it  
21 required at times me to put pressure or push down  
22 his head toward the ground in a manner that didn't  
23 injure him, but when he attempted to move, the  
24 push-back that I delivered would counter his  
25 resistance.

1           Q.    And that would cause pain to the  
2   scalp?

3           A.    No, that was not pain compliance.  
4   That was control.

5           Q.    Okay. I'm a little confused. Do you  
6   give both at the same time or is one technique  
7   different than the other?

8           A.    The techniques are different.  
9   Pulling the hair is pain compliance. I wasn't  
10  pulling his hair when I was pushing his head to  
11  the ground.

12          Q.    Okay. So while he was on the ground,  
13  you were using his hair to push his head to the  
14  ground?

15          A.    I was using his hair to control his  
16  head, yes, while I was pushing trying to maintain  
17  him low to the ground.

18          Q.    Okay. But when he was being taken  
19  out of the car, you were pulling to make him pain  
20  compliant?

21          A.    Yes, I was pulling to gain pain  
22  compliance.

23          Q.    Gain pain. Okay. Got you. At any  
24  time did you ask Mr. Owensby if he felt okay or if  
25  he was injured?

1           A.     After Owensby was escorted to the  
2     cruiser, I had very little contact with him, if  
3     any.

4           Q.     Do you know if anybody inquired as to  
5     whether Mr. Owensby was hurt?

6           A.     Yes.

7           Q.     Who?

8           A.     Sergeant Magill did.

9           Q.     And do you know if Sergeant Magill  
10    found injuries on Mr. Owensby or confirmed that he  
11    was or was not hurt?

12          A.     I know that Owensby had informed  
13    Sergeant Magill that his feet hurt.

14          Q.     Do you know if anything was done as a  
15    result of Mr. Owensby notifying Sergeant Magill  
16    that he was hurt?

17          A.     Yes. He was transported to the  
18    hospital for an evaluation.

19          Q.     Mr. Owensby was ultimately arrested,  
20    right, he wasn't just let back out on the street?

21          A.     Yes, he was arrested.

22          Q.     What happened to his car?

23          A.     The car that he was driving was  
24    towed.

25          Q.     Was there an inventory done of his

1 vehicle?

2 A. Yes, there was.

3 Q. Did you participate in that  
4 inventory?

5 A. Yes, I did.

6 Q. Do you know the results of that  
7 inventory?

8 A. Yes. Twenty-two thousand dollars in  
9 cash -- twenty-two thousand plus in cash,  
10 miscellaneous items, clothes. That was pretty  
11 much it.

12 Q. Okay. Were there any drugs in there?

13 A. No, not from my search.

14 Q. Do you know if anybody found any  
15 drugs in there?

16 A. No.

17 Q. Okay. Were any firearms located in  
18 the vehicle?

19 A. No.

20 Q. Were any other weapons located in the  
21 vehicle?

22 A. No.

23 Q. You didn't see any contraband  
24 whatsoever located in the vehicle?

25 A. The money.

1 Q. The money was contraband?

2 A. Yes.

3 Q. How was the money contraband?

4 A. The money was found to be -- or  
5 believed to be used in the sale of narcotics.

6 Q. What was that based off of? What  
7 evidence?

8 A. The basis of it was the surveillance  
9 that Detective Hartings had conducted, the lack of  
10 proof of where the money came from, the quantity  
11 of the money, the way the money was packaged, just  
12 in a plastic bag.

13 Q. I hear all that. Could you explain  
14 in particular how of all the potential crimes in  
15 the world and non-crimes in the world you  
16 determined that money to be the proceeds of drug  
17 sales?

18 MR. BAZELAK: Objection. He didn't  
19 say that he determined anything. He said he  
20 believed it could be, but go ahead.

21 THE WITNESS: Due to the possibility  
22 that the money was part of the trafficking in  
23 narcotics and the amount that was there, and the  
24 fact that it is uncommon for any normal person to  
25 drive around with twenty-two plus thousand dollars

1 in a grocery bag at their feet, the Dayton Police  
2 Department has a policy in which we can seize  
3 money with that information and with the  
4 assistance of a K-9 conducting a free air. They  
5 have a -- they have a process in which if the dog  
6 alerts to the money, the money is then seized and  
7 then it is taken up in court and a judge decides  
8 whether or not this money is given back to the  
9 defendant or if it is, in fact, used for  
10 narcotics.

11 BY MS. SMITH:

12 Q. You participated in counting that  
13 money, correct?

14 A. Yes.

15 Q. Who participated, other than  
16 yourself, in counting the money that was taken  
17 from the vehicle?

18 A. Myself, Officer Carter, Sergeant  
19 Magill, Detective Hartings, and Sergeant Thomas, I  
20 believe.

21 Q. Do you know who made the decision to  
22 seize the money?

23 A. The decision was made by Detective  
24 Hartings after speaking with his supervisor and  
25 abiding by our policy due to the amount that was

1       there and their investigation.

2               Q.     After you all were finished counting  
3       the money, what happened to it, do you know?

4               A.     The conclusion of counting it, the  
5       proper paperwork filled out, the money was placed  
6       inside an envelope and secured in our cruiser.

7               Q.     Was Mr. Owensby given a receipt?

8               A.     Yes.

9               Q.     Now, over the course of this traffic  
10       stop, on various occasions -- well, let me ask you  
11       this first; does everybody in the Dayton Police  
12       Department -- police force have a body cam or is  
13       it only issued to certain officers?

14              A.     Now or then?

15              Q.     Then. Not currently, September 30th.

16              A.     Then it was only those who were in a  
17       patrol-type of position.

18              Q.     And so you had one?

19              A.     Yes.

20              Q.     Okay. And in general, what is the  
21       protocol for using a body camera for officers --  
22       for the patrol officers?

23              A.     The body camera will be activated  
24       when and during contact with subjects.

25              Q.     Is there anything that automatically

1 triggers the camera to operate or is that  
2 something manual that each officer has to do to  
3 get the camera to turn on?

4 A. Emergency lights, activation of  
5 emergency equipment will automatically trigger all  
6 the cameras in the immediate area to turn on.

7 Q. Okay. And your camera was turned on  
8 that day on September 30th based on the fact that  
9 you operated -- or Officer Carter operated the  
10 overhead lights on the vehicle?

11 A. Yes.

12 Q. Does the audio and the video activate  
13 at the same time?

14 A. So when the cameras receive the  
15 stimulus to activate, there is a minute playback  
16 where there is no audio.

17 Q. At the very beginning?

18 A. So at the beginning of reviewing a  
19 video --

20 Q. Uh-huh.

21 A. -- from the Dayton Police Department  
22 there's a one minute where there's no audio. At  
23 the moment the audio starts is when something, as  
24 in the emergency equipment being turned on, that  
25 will activate all the cameras.

1           Q.    Okay.  Is there a way for officers to  
2 manually turn off the video -- the video feed of  
3 the body cam?

4           A.    You can turn off your camera.

5           Q.    Okay.  And is there a way to turn off  
6 the audio component of the body camera?

7           A.    Yes.

8           Q.    In the same way that there is that  
9 minute of play back where there's no audio but  
10 there is some video, is that same type of playback  
11 available once the camera is turned off manually?

12          A.    If you completely turn the camera  
13 off, yes.

14          Q.    Okay.  How long are you supposed to  
15 keep your body cam video and audio on during a  
16 stop?  Once it's activated, how long -- when are  
17 you able to turn it off after it's turned on?

18          A.    You are able to turn off your body  
19 camera at the conclusion of the contact with  
20 whoever the subject you're dealing with.

21          Q.    What would that conclusion be?  Would  
22 that be taking the person to jail or letting them  
23 go on their way or would that extend to writing of  
24 a report or something like that?  When is the end  
25 of the contact?

1           A.     The end of the contact would be going  
2     to jail. In this case, if you go to the hospital,  
3     due to HIPAA, you turn off the camera. But when  
4     you come into contact or you make contact, then  
5     the camera has to be activated.

6           Q.     And on various occasions you turned  
7     off your audio feed, correct?

8           A.     Yes.

9           Q.     Why did you do that?

10          A.     It was my belief that officers are  
11     allowed private conversations when not in the  
12     presence of citizens or subjects.

13          Q.     Is there -- yet was that kind of how  
14     officers in general in the police department  
15     handled their body cams? Was that kind of a  
16     common practice?

17                 MR. BAZELAK: Objection. If you  
18     know. I mean --

19     BY MS. SMITH:

20          Q.     If you know from working with your  
21     colleagues.

22          A.     It was a practice that I have seen  
23     others do.

24          Q.     Is that something -- I don't want to  
25     say tradition, that's the wrong word. Is that a

1 practice that you started or is that something  
2 that you learned during your time at the Dayton  
3 Police Department?

4 MR. BAZELAK: Objection. Go ahead.

5 THE WITNESS: Body cameras were a new  
6 thing and it was something we were taught when  
7 going through the training for body cameras was  
8 how to mute it.

9 BY MS. SMITH:

10 Q. And that training was taught -- or  
11 administered by the police department?

12 A. It was taught by Axon with other  
13 members of the police department.

14 Q. Do you recall while you were -- you  
15 and others were counting the money that was seized  
16 on the police cruiser's hood a comment was made to  
17 Officer Carter asking why did you beat that poor  
18 man up, or something along those lines? Do you  
19 recall that statement being made?

20 A. Yeah. I made that statement. It was  
21 insensitive and inappropriate. It was in an  
22 attempt to lighten what was a tense situation to  
23 kind of get everyone to ease up. I don't believe  
24 we beat him up by any means. I didn't believe we  
25 caused him any injury.

1 Q. So it was a joke, in other words?

2 A. Yes.

3 Q. Meant to lighten the mood?

4 A. Yes.

5 Q. Did you think it was a funny joke?

6 A. No, it -- I said it and then I was  
7 like, ah, I realized I probably shouldn't have  
8 said it.

9 Q. Now, after you got done counting the  
10 money, what was your next step of this entire  
11 investigation? Did you participate in the K-9  
12 sniff of the money?

13 A. The K-9 sniff of the money happened  
14 before counting it.

15 Q. Okay. So after you get done counting  
16 it, what happened?

17 A. Owensby was taken to a local  
18 hospital.

19 Q. He was taken in the cruiser driven by  
20 Officer Carter and yourself?

21 A. Correct.

22 Q. Did you have any conversations with  
23 Mr. Owensby on the drive to the hospital?

24 A. The conversation with Owensby on the  
25 drive to the hospital was kept just to the

1     pertinent information for filling out his booking  
2     screen and whatever information would be needed to  
3     give to the charge nurse for checking him into the  
4     hospital.

5             Q.     And at that point that he was  
6     arrested, what was he under arrest for?

7             A.     He was -- he was under arrest for  
8     obstructing official business and resisting arrest  
9     due to his actions that he did when we lawfully  
10    asked him to let us assist him out of the vehicle.

11            Q.     Do you know if he was actually ever  
12    charged with obstructing official business and  
13    resisting arrest?

14            A.     He was charged with both of those  
15    that day.

16            Q.     Do you know what happened to that  
17    case?

18            A.     The case was dismissed.

19            Q.     Do you know why it was dismissed?

20            A.     I've never been told the exact  
21    reason.

22            Q.     Okay. Do you recall how long it was  
23    or how much time had elapsed between Mr. Owensby  
24    being arrested and being taken to the hospital?

25            A.     No.

1 Q. Do you know if it was hours later?

2 A. It wasn't hours later. It wasn't  
3 even an hour later. It was less than an hour.

4 Q. When you got to the hospital, did you  
5 have an opportunity to speak with any of the  
6 hospital staff or medical providers about  
7 Mr. Owensby's condition?

8 A. No, that's his -- that's for his --  
9 that's his business.

10 Q. Were you ever made aware that  
11 Mr. Owensby had sustained any injuries while you  
12 were at the hospital?

13 A. No, we weren't told of any injuries.

14 Q. Did anybody speak to you about using  
15 extra care in transporting Mr. Owensby wherever  
16 you were taking him as a result of his evaluation  
17 at the hospital?

18 A. No.

19 Q. About how long was he at the hospital  
20 before he was discharged?

21 A. I don't recall.

22 Q. Was it over an hour?

23 A. I don't know.

24 Q. When you got to the hospital, how did  
25 Mr. Owensby get into the hospital building from

1 the cruiser?

2 A. The hospital has wheelchairs. We  
3 went and retrieved a wheelchair, and then Officer  
4 Carter and I helped him into the wheelchair. As I  
5 explained earlier, it's easier to transfer from a  
6 high to low position, the cruiser is set up higher  
7 than the wheelchair, and with Owensby's  
8 cooperation, it was a smooth transfer from the  
9 cruiser to the wheelchair.

10 Q. Can you describe what parts of his  
11 body you grabbed versus Officer Carter to  
12 transport him from the cruiser to the wheelchair?

13 A. I don't remember.

14 Q. Okay. And would that have been the  
15 same technique that you used to get him back into  
16 the cruiser to go to the jail?

17 A. From my recollection, he almost put  
18 himself into the cruiser from the wheelchair with  
19 little assistance from Officer Carter.

20 Q. Okay. So you and Officer Carter  
21 helped him from the cruiser into the wheelchair,  
22 and then when it was time to go back into the  
23 cruiser, Mr. Owensby transferred himself.

24 A. With little assistance from Officer  
25 Carter.

1           Q.    Okay.  After you left the hospital  
2   you took Mr. Owensby to jail, right?

3           A.    After leaving the hospital, yes, we  
4   were en route to the jail.  Officer Carter dropped  
5   me off to the safety building, which is where our  
6   property room is, so that I could tag in the  
7   money.

8           Q.    So you had the money with you when  
9   you went to the hospital?

10          A.    The money was secured in our cruiser.

11          Q.    Where was it in the car?

12          A.    In the trunk, I believe.

13          Q.    Was it locked away outside of just  
14   the locks of the car?

15          A.    The trunk of our cruiser has metal  
16   cages.

17          Q.    So you didn't actually accompany  
18   Mr. Owensby to jail?

19          A.    No, I did not.

20          Q.    Do you know if he was ever booked  
21   into the jail?

22          A.    I found out that he was not accepted  
23   into the jail.

24          Q.    Why wasn't he accepted?

25          A.    I don't know.  I wasn't there.

1           Q.     Okay.   Now, prior to you taking  
2     Mr. Owensby to the hospital while you were still  
3     at the scene of the incident, did anybody talk to  
4     you about what had happened, any other officers or  
5     supervisor?

6           A.     So, yes, upon the first supervisor,  
7     which was Sergeant Magill, I explained to him what  
8     happened and the details of the incident.

9           Q.     Did Mr. -- or Sergeant Magill make  
10    any indications to you that he would follow up on  
11    what had happened or that an investigation might  
12    ensue?

13          A.     Me telling Sergeant Magill the  
14    details of the incident is what allowed him to  
15    make the decision if there needed to be an  
16    investigation. Due to the details and the  
17    statements made, he had decided that there was  
18    going to be an investigation.

19          Q.     So he informed you at the scene that  
20    there would be an investigation into what  
21    happened?

22          A.     Yes, there would be an internal  
23    investigation.

24          Q.     And do you know if that internal  
25    investigation happened?

1           A.     Yes.

2           Q.     How were you a part of that internal  
3 investigation?

4           A.     Due to my part that I did in the  
5 incident, I had to complete a special report  
6 telling and detailing what happened, my actions  
7 and the actions of Owensby.

8           Q.     Did you have to do anything else?

9           A.     For the internal investigation, no.

10          Q.     Do you know the results of that  
11 internal investigation?

12          A.     I believe it counts as an exoneration  
13 with training.

14          Q.     An exoneration with training?

15          A.     Yes.

16          Q.     What kind of training?

17          A.     Training and/or counseling for my  
18 insensitive comment and for muting my body camera.

19          Q.     Have you undergone that training  
20 and/or counseling?

21          A.     Yes.

22          Q.     Could you describe the training?

23          A.     It's an explanation of what's  
24 expected and the understanding of how the policy  
25 is written for those two violations.

1           Q.    Is that in just reading material or  
2   was that an actual in-person course?

3           A.    It's -- yeah, it's an in-person  
4   course with the lieutenant of our Professional  
5   Standards Bureau.

6           Q.    Do you recall who actually put the  
7   handcuffs on Mr. Owensby?

8           A.    Officer Carter and I were the two  
9   that placed the handcuffs on him.

10          Q.    And you handcuffed him to the front  
11   or to the back?

12          A.    He was handcuffed in the back due to  
13   his active resistance.

14          Q.    Do you know if handcuffing him to the  
15   front or to the back -- well, do you know if  
16   having his hands cuffed behind his back -- well,  
17   strike that.

18                   At any time did Mr. Owensby express  
19   any pain or discomfort from having his hands  
20   cuffed behind his back?

21          A.    I don't remember.

22          Q.    Give me one minute.

23                   MS. SMITH:  Actually, can we take a  
24   five-minute break?

25                   MR. BAZELAK:  Sure.

1 (Pause in proceedings.)

2 BY MS. SMITH:

3 Q. On September 30th, 2021, were there  
4 any protocols in place for transferring an  
5 individual with mobility issues who was being  
6 arrested into a police cruiser?

7 A. No, there were no specific protocols,  
8 procedures, or policies. We are taught to try to  
9 accommodate people to the best of our ability.

10 Q. And, again, you said there's no real  
11 equipment to aid in those accommodations provided  
12 by the police department, right?

13 A. No, the police department doesn't  
14 provide any type of equipment or devices for  
15 people with mobility issues.

16 Q. So any accommodations that would be  
17 made would be improvised?

18 MR. BAZELAK: Objection.

19 THE WITNESS: I believe that it's put  
20 on the person to have their devices to assist with  
21 their mobility issues, but yes, it's improvised.  
22 It's a come up with an agreement between -- or a  
23 plan between the subject we're dealing with and  
24 the officer to the best of our ability to safely  
25 transfer and transport.

1 BY MS. SMITH:

2 Q. And you might have told me and if  
3 I've forgotten, forgive me. At what point in the  
4 stop did you realize that you had encountered  
5 Mr. Owensby on that prior occasion in 2020?

6 A. At no point during that stop did I  
7 know that.

8 Q. Okay. But you know that now?

9 A. Yes.

10 Q. So at what point, I guess, from  
11 September 30 of 2020 to present did you realize  
12 that Mr. Owensby had been encountered by you in  
13 2020?

14 A. Shortly after. A couple days or  
15 weeks after it was brought to my attention that  
16 Owensby had a field interview card or an FIC  
17 filled out by me detailing the prior stop.

18 Q. Who brought it to your attention?

19 A. I don't remember.

20 Q. Do you know if it was in a  
21 conversation or an e-mail?

22 A. It was in a conversation, not an  
23 e-mail. Like I said, I don't remember who it was.

24 Q. Okay. And afterwards I know you  
25 spoke with Sergeant Magill at the scene and I know

1     that there was an investigation afterwards and you  
2     indicated that there was some training on two  
3     infractions. Were you ever interviewed by  
4     anybody -- outside of that extensive police report  
5     that you had to create, were you ever actually  
6     interviewed by anybody about what happened?

7             A.     I was interviewed by a Professional  
8     Standards Bureau.

9             Q.     Do you know who interviewed you?

10            A.     Sergeant Matlock and Sergeant --  
11     Justin Poe.

12            Q.     And did you do anything to prepare  
13     for that interview?

14            A.     I reviewed my report and the video of  
15     the incident.

16            Q.     Did you and Officer Carter discuss  
17     the incident afterwards at any time?

18            A.     Yes.

19            Q.     What were the nature of those  
20     discussions?

21            A.     It was to gather his observations and  
22     the actions that he did for the details of the  
23     special report and for completing the criminal  
24     report.

25            Q.     Did you guys submit a joint special

1 report?

2 A. No. We each have to type a special  
3 report.

4 Q. Okay. But you needed his perspective  
5 in order to give a complete report?

6 A. Yes. I didn't want to assume what I  
7 thought he did and incorrectly state what he did  
8 and submit that when I was wrong.

9 Q. Okay. You guys were interviewed.  
10 You were interviewed separately?

11 A. Yes.

12 MS. SMITH: Okay. Well, I will  
13 reserve my right to recall, and I don't have any  
14 more questions.

15 MR. BAZELAK: We'll read.

16 (Thereupon, the deposition was  
17 concluded at 4:08 p.m.)  
18  
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1 STATE OF OHIO )

2 COUNTY OF MONTGOMERY ) SS: CERTIFICATE

3 I, Kathy S. Wysong, a Notary  
4 Public within and for the State of Ohio, duly  
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the  
7 above-named WAYNE HAMMOCK, was by me first duly  
8 sworn to testify the truth, the whole truth and  
9 nothing but the truth.

10 Said testimony was reduced to  
11 writing by me stenographically in the presence  
12 of the witness and thereafter reduced to  
13 typewriting.

14 I FURTHER CERTIFY that I am not a  
15 relative or Attorney of either party, in any  
16 manner interested in the event of this action,  
17 nor am I, or the court reporting firm with which  
18 I am affiliated, under a contract as defined in  
19 Civil Rule 28(D).

20

21

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25

1           IN WITNESS WHEREOF, I have hereunto set  
2 my hand and seal of office at Dayton, Ohio, on  
3 this 21st day of November, 2022.

4           *Kathy S. Wysong*  
5 \_\_\_\_\_  
6

7           KATHY S. WYSONG, RPR

8           NOTARY PUBLIC, STATE OF OHIO

9           My commission expires 12-25-2023  
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November 29, 2022

To: Leonard J. Bazalak

Case Name: Owensby, Clifford v. The City Of Dayton Et Al.

Veritext Reference Number: 5511220

Witness: Wayne Hammock                      Deposition Date: 11/10/2022

Dear Sir/Madam:

The deposition transcript taken in the above-referenced matter, with the reading and signing having not been expressly waived, has been completed and is available for review and signature. Please call our office to make arrangements for a convenient location to accomplish this or if you prefer a certified transcript can be purchased.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,  
Production Department

NO NOTARY REQUIRED IN CA

Veritext Legal Solutions

DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 5511220

CASE NAME: Owensby, Clifford v. The City Of Dayton Et Al.

DATE OF DEPOSITION: 11/10/2022

WITNESS' NAME: Wayne Hammock

In accordance with the Rules of Civil  
Procedure, I have read the entire transcript of  
my testimony or it has been read to me.

I have made no changes to the testimony  
as transcribed by the court reporter.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Wayne Hammock

Sworn to and subscribed before me, a  
Notary Public in and for the State and County,  
the referenced witness did personally appear  
and acknowledge that:

They have read the transcript;

They signed the foregoing Sworn  
Statement; and

Their execution of this Statement is of  
their free act and deed.

I have affixed my name and official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration Date

DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 5511220

CASE NAME: Owensby, Clifford v. The City Of Dayton Et Al.

DATE OF DEPOSITION: 11/10/2022

WITNESS' NAME: Wayne Hammock

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Wayne Hammock

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;

They have listed all of their corrections in the appended Errata Sheet;

They signed the foregoing Sworn Statement; and

Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration Date

1

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Date

Wayne Hammock

21

SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_

22

DAY OF \_\_\_\_\_, 20\_\_\_\_ .

23

\_\_\_\_\_  
Notary Public

24

25

\_\_\_\_\_  
Commission Expiration Date

[00343 - al]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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